

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESAL PRICE LITIGATION))))	MDL NO. 1456 Civil Action No. 01-12257-PBS Subcategory Case No. 03-10643-PBS
THIS DOCUMENT RELATES TO: <i>City of New York, et al.</i> v. <i>Abbott Laboratories, et al.</i>)))))))	Judge Patti B. Saris Magistrate Judge Marianne B. Bowler

**MOVANTS' MOTION FOR LEAVE TO FILE ATTACHED REPLY MEMORANDUM
AND DECLARATION IN SUPPORT OF MOTION FOR A PROTECTIVE ORDER AND
TO QUASH TARDY SUBPOENA ISSUED BY DEFENDANTS**

Dr. Thomas Fanning, a former employee of the New York State Department of Health, and plaintiffs, the City of New York and New York Counties in MDL 1456 (hereinafter collectively referred to as "Movants") by and through their attorneys of record Kirby McInerney LLP, hereby move for permission to file the attached reply memorandum and declaration in further support of their Motion for Protective Order and to Quash Tardy Subpoena Issued by Defendants [Docket no. 7386, sub-docket No. 272]. Movants respectfully submit that this reply memorandum is necessary to respond to misstatements and inaccuracies set forth in defendants' opposition papers and, in that regard, it will facilitate the just and proper adjudication of movants' motion on a full record.

WHEREFORE, movants respectfully request that this Court enter an Order permitting them to file the attached reply memorandum and declaration in further support of their Motion

for Protective Order and to Quash Tardy Subpoena Issued by Defendants. A proposed form of order is attached.

Dated: February 3, 2011

Respectfully submitted,

By: /s/ Joanne M. Cicala
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CERTIFICATE OF SERVICE

I, Kathryn B. Allen, hereby certify that I caused a true and correct copy of the foregoing to be served on counsel of record via electronic service pursuant to paragraph 11 of Case Management Order No. 2, by sending a copy to LexisNexis File and Serve for posting and notification to all parties.

Dated: February 3, 2011

_____/s/
Kathryn B. Allen
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**[PROPOSED] ORDER GRANTING MOVANTS' MOTION FOR LEAVE TO FILE
REPLY MEMORANDUM AND DECLARATION IN SUPPORT OF MOTION FOR A
PROTECTIVE ORDER AND TO QUASH TARDY SUBPOENA ISSUED
BY DEFENDANTS**

IT IS HEREBY ORDERED THAT the Movants shall be granted leave to file their Reply Memorandum and Declaration in Support of Motion for a Protective Order and to Quash Tardy Subpoena Issued by Defendants.

Dated: _____, 2011

Hon. Marianne B. Bowler
United States Magistrate Judge